

on December 5, 2005.² At the time of removal, Defendants and other pharmaceutical manufacturers also removed state-court actions filed by the Attorneys General of Illinois, Kentucky, Alabama, Minnesota, Pennsylvania, and Wisconsin. All states, including New York, filed a motion to remand. Every federal court that considered the motion to remand prior to the transfer to the AWP MDL granted the motion, and remanded the actions to state court. (The five remand orders have been appended to the motion for a hearing filed by Illinois and Kentucky.)

Plaintiff's motion to remand has not yet been decided. Prior to transfer, Plaintiff's motion was pending before the United States District Court for the Northern District of New York, and was returnable on October 5, 2005. The motion was fully briefed by all parties.

The motions to remand filed by the Attorneys General for Illinois and Kentucky have also not been decided. Illinois and Kentucky have recently requested oral argument on their motions to remand, and this Court has set a hearing date of January 27, 2006.

Request to Participate

Plaintiff has not requested oral argument on its motion to remand, nor does it believe further briefing is necessary; the motion has been fully briefed and can be decided on the papers submitted. (In furtherance of this position, Plaintiff will be filing an opposition to Defendants' motion for further briefing, as it does nothing but delay the proceedings.) Nonetheless, because a hearing is to take place, Plaintiff requests the opportunity to be present and participate. Because the motions to remand filed by Illinois and Kentucky raise many of the same jurisdictional questions as Plaintiff's pending motion to remand, it would be an appropriate exercise of the

² This is the second time these actions have been removed to federal court and transferred to the AWP MDL. These actions were previously transferred in 2003, at which time this Court remanded the actions to state court.

court's discretion to permit plaintiff to participate and explain to this Court why remand is required. Counsel for Plaintiff has conferred with counsel for the States of Illinois and Kentucky, as well as counsel for Defendants, and they all have consented to Plaintiff's participation.

Plaintiff respectfully requests that it be allowed to participate in the hearing on the motions to remand filed by the Attorneys General of Illinois and Kentucky.

Certification Pursuant to Local Rule 7.1

Pursuant to this Court's Local Rule 7.1, the undersigned counsel certifies that counsel for Plaintiff has conferred with counsel for Defendants (as well as counsel for the States of Kentucky and Illinois) and they have consented to this Motion.

January 6, 2006

Respectfully Submitted,

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